

M E M O R A N D U M



January 7, 2008

To: Gary E. Mead, Acting Director, Office of Detention and Removal, Immigration and Customs Enforcement
From: American Bar Association Delegation to the Elizabeth Contract Detention Facility¹
Copies to: [REDACTED] ABA Commission on Immigration
Subject: Report on Observational Tour of the Elizabeth Contract Detention Facility, Elizabeth, New Jersey

This memorandum summarizes and evaluates information gathered at the Elizabeth Contract Detention Facility (“EDF” or “the facility”) in Elizabeth, New Jersey, during the delegation’s July 25, 2007 visit to the facility. The information was gathered via observation of the facility by the delegation and discussions with EDF and Immigration and Customs Enforcement (“ICE”) personnel.

I. ICE DETENTION STANDARDS

In November 2000, the Immigration and Naturalization Service (“INS”),² promulgated the “INS Detention Standards” to ensure the “safe, secure and humane treatment” of immigration detainees. The thirty-nine standards contained in the Detention Operations Manual cover a broad spectrum of issues ranging from visitation policies to grievance procedures. These standards apply to ICE-operated detention centers and other facilities that house immigration detainees pursuant to a contract or intergovernmental service agreement (“IGSA”).

The Detention Standards (the “Standards”) went into effect at ICE-operated detention facilities on January 1, 2001. ICE intended to phase in the Standards at all of its contract and IGSA facilities by December 31, 2002. The Standards constitute a floor rather than a ceiling for the treatment of immigration detainees. In other words, they are designed to establish the minimum requirements to which ICE must adhere in its facilities. Each Field Office or Officer-in-Charge has discretion to promulgate policies and practices affording ICE detainees more enhanced rights and protections, beyond those provided for by the Standards.

¹ The delegation was comprised of attorneys from the New York office of Fried, Frank, Harris, Shriver & Jacobson LLP, including [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

² Effective March 1, 2003, the INS ceased to exist as an agency of the Department of Justice. The INS’ immigration enforcement functions were transferred to Immigration and Customs Enforcement (“ICE”), a division of the newly created Department of Homeland Security (“DHS”).

II. INTRODUCTION

A. The Delegation's Visit, July 25, 2007

On Wednesday, July 25, 2007, the members of our delegation met with several members of EDF's staff and [b6, b7C] a representative from the ICE office in Newark, New Jersey. ICE Supervisory Deportation Officer and Acting Director of EDF [b6, b7C] led our delegation on a tour of the facility. The delegation also met with the following other EDF personnel, many of whom joined the delegation on its tour: [b6] (Public Affairs Officer), [b6, b7C] (Detention and Contract), [b6] (Case Management), [b6, b7C] (Supervisory Enforcement Agent), Commander [b6] (Public Health Officer), [b6] (Assistant Chief Counsel), [b6] (Executive Office for Immigration Review ("EOIR") Court Administrator), [b6, b7C] (Warden), [b6, b7C] (Assistant Warden) and [b6] (Food Service Manager). The delegation appreciates the cooperation of these individuals; they were direct and accommodating during our tour of the facility. Our report is based on the discussions we had with these EDF and ICE employees, as well as observations of the facility.

Inexplicably, many of the areas that the delegation had requested to visit in advance and needed to see in order to fulfill its mission were locked and the EDF staff did not permit the delegation access to them. These areas included the law library, the dormitories (where the telephones are located), and the recreational areas. Accordingly, the delegation was unable to determine whether EDF meets a number of sections of the Standards, particularly those related to legal access, as more fully described below in this memorandum. This lack of access is remarkable considering the ABA's longstanding partnership with ICE in assessing legal access at detention facilities, and is highly unusual for ABA delegations, which are routinely permitted access to these areas.³ The 2006 ABA delegation to EDF was not similarly restricted. In addition, although the delegation had requested in advance and understood that the visit would continue until 4 p.m. and the schedule was not objected to before our visit, the EDF staff made clear when the delegation arrived that the tour would be completed by approximately 12 p.m. Therefore, the delegation was permitted to be inside the EDF facilities for only some two hours and was unable to garner sufficient information relating to a number of the Standards.

B. General Information About the Elizabeth Detention Facility

EDF is a co-ed immigration detention facility reopened in January 1997 and operated by Corrections Corporation of America ("CCA"). According to the EDF personnel, the facility has the capacity to hold up to 326 detainees, 273 men and 53 women.⁴ At the time of the delegation's visit, EDF had a population of 303 detainees, 252 men and 51 women.⁵ Officer [b6, b7C] told the delegation that the facility housed immigration detainees from several different countries.⁶ Detainees are given a copy of a Detainee Handbook (the "EDF Handbook") upon arrival.⁷

³ See Letter from DRO Deputy Executive Associate Commissioner Anthony S. Tangeman to ABA (Aug. 20, 2001): "Routinely, all tours of facilities shall include general housing units, law libraries, dining facilities, recreation areas, healthcare services and visitation areas." A copy of this letter was attached to the letter to ICE requesting the facility tour.

⁴ Statement of ICE Officer [b6, b7C].

⁵ According to a sign posted in the intake section of the facility, observed by delegation members [b6] and [b6].

⁶ Statement of Officer [b6, b7C].

⁷ Statement of [b6, b7C]. According to Officer [b6, b7C], the EDF Handbook is available in five languages: English, Spanish, Creole, Chinese, and French.

III. LEGAL ACCESS STANDARDS

A. Visitation

1. Visitation by Attorneys

The Standards require that facilities permit legal visitation seven days per week.⁸ Attorneys should have access to their clients eight hours per day during the week and four hours per day during the weekend.⁹ The visits must be private, and should not be interrupted for head counts.¹⁰ Facilities should establish a procedure by which attorneys may call to determine whether a detainee is housed in a particular facility.¹¹ Detention centers should permit visits from attorneys, other legal representatives, legal assistants, and interpreters.¹² Visitation hours must be provided in the handbook, and posted where detainees can easily see them.¹³ If standard operating procedures at the facility require strip searches after contact visits with a legal representative, then the facility must provide an option for confidential non-contact visits with legal representatives and a mechanism to exchange documents.¹⁴

EDF meets the key provisions of in this section of the Standards. The delegation toured the visitation area of the facility. Attorneys may visit the detainees seven days per week, from 6 a.m. to 10 p.m. each day, and this information is contained in the EDF Handbook.¹⁵ EDF has three attorney visitation booths.¹⁶ The kitchen will provide a meal to the detainee once the meeting concludes, should the meeting continue through a meal.¹⁷ Detainees are subject to a search after a legal visit; however, alternative procedure for a non-contact visit would be made available upon request (although such request had not been recorded prior to the observational tour).¹⁸ Interpreters are available for credible-fear interviews.¹⁹

2. Visitation by Family and Friends

To maintain detainee morale and family relationships, the Standards encourage visits from family and friends.²⁰ The Standards require that facilities establish written visitation hours and procedures, post them where detainees can see them, and make them available to the public.²¹ This includes procedures for handling incoming money for detainees.²² The visiting area is to be “appropriately furnished and arranged, and as comfortable and pleasant as practicable.”²³ Visiting hours shall be set on Saturdays, Sundays, and holidays, and the Standards encourage facilities to accommodate visitors at other times

⁸ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

⁹ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

¹⁰ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.

¹¹ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.6.

¹² Detention Operations Manual, Detainee Services, Standard 17, Section III.I.3.

¹³ Detention Operations Manual, Detainee Services, Standard 17, Section III.B.

¹⁴ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.11.

¹⁵ EDF Handbook, p. 10; notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C].

¹⁶ Observations of delegation members [b6] and [b6].

¹⁷ Notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C].

¹⁸ Notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C].

¹⁹ Notes from delegation member [b6] on conversation with Officer [b6, b7C].

²⁰ Detention Operations Manual, Detainee Services, Standard 17, Section I.

²¹ Detention Operations Manual, Detainee Services, Standard 17, Section III.A & B.

²² Detention Operations Manual, Detainee Services, Standard 17, Section III.D.

²³ Detention Operations Manual, Detainee Services, Standard 17, Section III.G.

when they are facing a particular hardship.²⁴ Visits should be at least thirty minutes long, and longer when possible.²⁵ Visits should be granted to detainees in both disciplinary and administrative segregation unless a detainee violates the visitation rules or threatens the security of the visitation room.²⁶

EDF meets the key provisions in this section of the Standards. The visitation schedule is clearly posted at the entrance to the facility.²⁷ Visiting hours are seven days per week, from 9:00 a.m. until 5:00 p.m. on weekends and holidays, and from 5:00 p.m. until 10:00 p.m. during the week.²⁸ Visits shall not exceed sixty minutes, and visiting periods can be shortened because of security risks, emergency count, or other unanticipated events.²⁹ Visits are non-contact; EDF has twenty semi-private visitation “cubicles” where detainees are separated from visitors by Plexiglas and communicate via intercom.³⁰ As far as procedures for handling incoming money for detainees is concerned, EDF accepts money orders, but not checks, which policy is posted at the entrance to the facility.³¹ Minors are allowed to visit.³²

B. Telephone Access

1. General Requirements

The Standards require that facilities provide detainees with reasonable and equitable access to telephones during established facility waking hours.³³ In order to meet this requirement, facilities must provide at least one telephone for every twenty-five detainees.³⁴ The Standards also require that telephone access rules be provided in writing to each detainee upon admittance, and that the rules be posted where detainees may easily see them.³⁵

It is unclear whether EDF meets this Standard; EDF staff did not permit delegation members to access the dormitories and test the phones. There appears to be an adequate number of telephones in the facility. Each dormitory unit contains two telephones and there are a total of thirteen dormitories.³⁶ Although the delegation observed telephones installed in two of the dormitory units, the delegation was not able to determine whether the phones were in working order. As detailed in the Introduction, EDF staff did not permit the delegation to access the dormitories. Aside from those in the dormitories, no telephones are available to the detainees.³⁷

The telephones are accessible to detainees daily until the lights are turned off in the facility, which time is 11 p.m. on weekdays and 2 a.m. on weekends.³⁸ Maintenance on the phones is performed twice weekly, and the telephone service provider is PCS.³⁹

²⁴ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

²⁵ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

²⁶ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.5.

²⁷ Observations of delegation member [REDACTED].

²⁸ EDF Handbook, p. 10.

²⁹ EDF Handbook, p. 10. The EDF Handbook does not distinguish between non-legal visits and legal visits.

According to Officer [REDACTED], the visitation process and inmates’ rights thereto are explained during their initial court hearing at EDF. Notes from delegation member [REDACTED], on conversation with Officer [REDACTED].

³⁰ Observations of delegation member [REDACTED].

³¹ Observations of delegation members [REDACTED] and [REDACTED].

³² Notes from delegation member [REDACTED] on conversation with Officer [REDACTED].

³³ Detention Operations Manual, Detainee Services, Standard 16, Sections I & III.A.

³⁴ Detention Operations Manual, Detainee Services, Standard 16, Section III.C.

³⁵ Detention Operations Manual, Detainee Services, Standard 16, Section III.B.

³⁶ Statement of Officer [REDACTED].

³⁷ Observations of delegation member [REDACTED].

³⁸ Statement of Officer [REDACTED].

Telephone usage rules are included in the EDF Handbook,⁴⁰ which is provided to detainees upon arrival.⁴¹ The EDF Handbook describes the general mechanics of telephone calls, including instructions on use of telephones, time limits, purchasing and refilling calling cards, requests for emergency calls and provisions for free calls.⁴² Because of restricted access to the telephones, the delegation was not able to observe whether these rules or any telephone instructions were posted where detainees may easily see them. If needed, detainees may request assistance with the telephones from EDF personnel.⁴³ In addition, those detainees who are non-English speaking typically request assistance from other detainees.⁴⁴ According to Officer [b6, b7C], the phone numbers of local consulates are posted by each phone or bank of phones in the facility, however this could not be confirmed by the delegation.

2. Direct Calls and Free Calls

The Standards allow facilities to generally restrict calls to collect calls;⁴⁶ however, the facility must permit detainees to make direct calls to the local immigration court and the Board of Immigration Appeals, federal and local courts, consular officials, legal service providers, government offices, and to family members in case of emergency.⁴⁷ The facility shall not require indigent detainees to pay for these types of calls if local, nor for non-local calls if there is a compelling need.⁴⁸ In addition, the facility “shall enable all detainees to make calls to the [ICE]-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party.”⁴⁹

EDF appears to partially meet this section of the Standards, although the delegation was unable to confirm whether several provisions were met. In addition, detainees do not qualify as indigent for thirty days, which may prevent them from having proper telephone access for extended periods of time. Detainees may make collect calls or use prepaid calling cards (e.g. \$2, \$5 and \$20 cards).⁵⁰ In addition, detainees are permitted to make free calls to certain consulates.⁵¹ It is unclear whether EDF entirely meets this section of the standards, since Officer [b6, b7C] stated that telephone calls to courts and attorneys are considered to be regular calls (i.e. collect or pay calls).⁵² It was unclear whether telephone calls to certain pro bono attorneys are free of charge to detainees who do not qualify as indigent.

The delegation was not permitted to test any of the phones and was not able to observe any notifications near the phones of the ability to place direct calls. The delegation did not see anyone using the telephones.

³⁹ Statement of Officer [b6, b7C]

⁴⁰ EDF Handbook, p. 3.

⁴¹ Statement of Officer [b6, b7C].

⁴² EDF Handbook, p. 3.

⁴³ Notes from delegation member [b6] on conversation with Officer [b6, b7C].

⁴⁴ Notes from delegation member [b6] on conversation with Officer [b6, b7C].

⁴⁵ Statement of Officer [b6, b7C].

⁴⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁴⁷ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁴⁸ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁴⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁵⁰ Statement of Officer [b6, b7C].

⁵¹ Statement of Officer [b6, b7C].

⁵² Notes from delegation member [b6] on statement by Officer [b6, b7C].

If a detainee is indigent, the alien can request the ability to make additional free calls.⁵³ A detainee may qualify as indigent if he or she has had a balance of \$3 or less in his or her EDF account for the past thirty days.⁵⁴ We were unable to confirm the extent of usage of this right.

3. Telephone Access to Legal Representatives

The Standards provide that the facility shall not restrict the number of calls a detainee places to his or her legal representatives, nor limit the duration of such calls by automatic cutoff, unless necessary for security purposes or to maintain orderly and fair access to telephones.⁵⁵ If time limits are necessary, they shall be no shorter than twenty minutes.⁵⁶ The Standards require that the facility ensure privacy for detainees' telephone calls regarding legal matters, and that calls shall not be electronically monitored absent a court order.⁵⁷

EDF does not meet this section of the Standards; the phones do not provide privacy and only some legal calls may last twenty minutes according to the Handbook. The EDF Handbook advises detainees that calls should not last more than fifteen minutes, except calls to consulates and pro bono attorneys, which can exceed the normal fifteen-minute limit.⁵⁸ This provision should be changed to reflect the Standards' twenty-minute minimum.⁵⁹ According to Officer [b6, b7C], in practice, there are no time limits on any calls except when other detainees are waiting to use the telephones.⁶⁰

The telephones within each dormitory unit are located in public locations without privacy; thus detainees can freely listen to each other's conversations with attorneys.⁶¹ There are no private booths, which Officer [b6, b7C] said was for security reasons.⁶² According to Officer [b6, b7C], phone conversations made on the outgoing phones are not recorded or monitored, although the EDF Handbook states that "[a]ll non-legal phone calls are subject to monitoring and/or recording."⁶³ From time to time the facility blocks certain calls from relatives of detainees.⁶⁴

4. Incoming Calls and Messages

The Standards require that facilities take and deliver messages from attorneys and emergency incoming telephone calls to detainees as promptly as possible.⁶⁵ If the facility receives an emergency telephone call for a detainee, the Standards suggest that the facility obtain the caller's name and number and permit the detainee to return the emergency call as soon as possible.⁶⁶

⁵³ Statement of Officer [b6, b7C]

⁵⁴ Notes from delegation member [b6] on conversation with Officer [b6, b7C]; EDF Handbook, p. 11.

⁵⁵ Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

⁵⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

⁵⁷ Detention Operations Manual, Detainee Services, Standard 16, Section III.J.

⁵⁸ EDF Handbook, p. 3.

⁵⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

⁶⁰ Statement of Officer [b6, b7C].

⁶¹ Observations of delegation members [b6] and [b6].

⁶² Statement of Officer [b6, b7C]

⁶³ EDF Handbook, p. 3.

⁶⁴ Statement of Officer [b6, b7C], who said this was to avoid running up a bill.

⁶⁵ Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

⁶⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

EDF appears to meet this section of the Standards. Messages are taken by the facility and delivered to detainees.⁶⁷ However, due to time constraints imposed by the facility personnel, the delegation did not have the opportunity to ask detailed questions regarding incoming calls and messages.

5. Telephone Privileges in Special Management Unit

The Standards provide that detainees in the Special Management Unit (“SMU”) for disciplinary reasons shall be permitted to make direct and/or free calls, except under compelling security conditions.⁶⁸

EDF meets this section of the Standards. Detainees at EDF placed in the SMU for disciplinary reasons have access to mobile telephones.⁶⁹ However, we were unable to determine the extent of their use or difficulties for detainees, if any, in securing access to them.

C. Access to Library and Legal Material

All facilities with detainees “shall permit detainees access to a law library, and provide legal materials, facilities, equipment and document copying privileges, and the opportunity to prepare legal documents.”⁷⁰

1. Library Access

The Standards suggest that each facility shall have a flexible schedule for law library use that permits all detainees, regardless of housing or classification, to use the law library on a regular basis.⁷¹ Each detainee shall be permitted to use the law library for a minimum of five hours per week.⁷²

It is unclear whether EDF meets this section of the Standards; it does not appear that detainees could have access to the library for five hours per week. EDF staff said that all detainees are given access to the library for five hours per week.⁷³ The EDF Handbook indicates that all EDF “dorms” are guaranteed five hours per week of access to the library.⁷⁴ The EDF Handbook also provides that the library is open from 8:30 a.m. to 3:30 p.m., or forty-nine hours per week if it is open for seven days per week.⁷⁵ However, EDF staff indicated that there thirteen dorms in total, and that each dorm houses between six and forty-two detainees.⁷⁶ EDF staff further indicated that each dorm uses the library in turn, and there is a sign up sheet for those wishing to use the library.⁷⁷ Permitting all dorms to use the library for five hours per week in turn would require that the library be open for 65 hours per week; therefore, the operating hours of the library appear to indicate that each dorm cannot use the library for five hours per week, even if it is open seven days per week. This library appears to be open for too few hours to be able to meet this section of the Standards.

2. Library Conditions

⁶⁷ Statement of Officer [REDACTED].

⁶⁸ Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

⁶⁹ Statement of Warden [REDACTED].

⁷⁰ Detention Operations Manual, Detainee Services, Standard 1, Section I.

⁷¹ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁷² Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁷³ Statements of Officer [REDACTED] and Officer [REDACTED].

⁷⁴ EDF Handbook, p. 6.

⁷⁵ EDF Handbook, p. 6. The delegation did not find out for how many days the library is open, but the EDF Handbook does not contain any limitation on days.

⁷⁶ Statement of Officer [REDACTED].

⁷⁷ Statement of Officer [REDACTED].

The Standards require that a facility provide a law library with sufficient space to facilitate detainees' legal research and writing.⁷⁸ Furthermore, it must be large enough "to provide reasonable access to all detainees who request its use. It shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas."⁷⁹

EDF does not appear to fully meet this section of the Standards; the library appears too small to accommodate over 300 detainees. EDF provides one law library, which is housed in a small internal room.⁸⁰ The library contains a desk at which a guard was seated, and one table with approximately four or five chairs arranged around it.⁸¹ The library also contained a computer and a typewriter on separate tables, and there were chairs in front of those tables.⁸² Against the walls on either side of the table there were bookshelves.⁸³ The law library is well lit, and is isolated from other areas and therefore from noise.⁸⁴ EDF is capable of housing up to 326 detainees, and it is usually close to capacity.⁸⁵ Given the number of detainees and the limited number of seats in the library, this library appears too small to "provide reasonable access to all detainees who request its use."

3. Materials Identified in the Detention Standards

The Standards require that all facility law libraries contain the materials listed in Attachment A to the chapter on *Access to Legal Materials*.⁸⁶ These materials must be updated regularly, and information must be added on significant regulatory and statutory changes regarding detention and deportation of aliens in a timely manner.⁸⁷ Damaged or stolen materials must be promptly replaced.⁸⁸

The delegation was unable to determine whether EDF meets this section of the Standards. As detailed in the Introduction, EDF staff did not permit the delegation to access the law library. Because the delegation was not permitted to enter the law library, and the bookshelves were in the corners furthest from the door, the delegation was unable to determine what books were on those shelves.⁸⁹ Staff indicated that the materials that the library has are updated through LexisNexis.⁹⁰ Because the delegation was not permitted to enter the law library, the delegation was unable to determine what materials could be accessed by the detainees on the library's computer. EDF staff stated that Officer [b6, b7C], who was not at the EDF on the date of the delegation's visit, was responsible for updating the law library's materials.⁹¹ When asked how the materials were updated, the delegation was told that when inserts arrive at the facility they are placed in the library.⁹² One staff member noted that "nothing has come in awhile."⁹³

4. Library Equipment and Supplies

⁷⁸ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁷⁹ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁸⁰ Observations of delegation member [b6].

⁸¹ Observations of delegation member [b6].

⁸² Observations of delegation member [b6].

⁸³ Observations of delegation member [b6].

⁸⁴ Observations of delegation member [b6].

⁸⁵ Statement of Officer [b6, b7C].

⁸⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

⁸⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

⁸⁸ Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

⁸⁹ Observations of delegation members [b6] and [b6].

⁹⁰ Statements of Officer [b6, b7C] and Assistant Chief Counsel [b6].

⁹¹ Statement of Assistant Chief Counsel [b6].

⁹² Statements of Assistant Chief Counsel [b6] and Officer [b6, b7C].

⁹³ Observations of delegation members [b6] and [b6]; statement of Officer [b6, b7C].

The Standards require that facility law libraries provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.⁹⁴ Staff must inspect at least weekly to ensure equipment is in working order and to stock sufficient supplies.⁹⁵ In addition, indigent detainees must be provided free envelopes and stamps for legal mail.⁹⁶

It is unclear whether EDF meets this section of the Standards; the delegation was unable to enter the library to check equipment functionality or see whether supplies were available. In addition, one computer does not seem adequate for over 300 detainees. There was one computer and one typewriter visible through the window of the locked door of the EDF law library,⁹⁷ which does not seem adequate for over 300 detainees. Staff indicated that “all the supplies [the detainees] need” were provided for the detainees, including pens, paper, typewriter ribbon, photocopies and computer printers,⁹⁸ but because the delegation was not permitted to enter the law library, the delegation was not able to determine whether equipment was functional or where in the library such materials were kept or provided.⁹⁹

5. Photocopies

The Standards provide that each facility shall ensure that detainees can obtain photocopies of legal materials, when such copies are reasonable and necessary for legal proceedings involving the detainee.¹⁰⁰ Enough copies must be provided so that a detainee can fulfill court procedural rules and retain a copy for his records.¹⁰¹

EDF meets this section of the Standards. According to a staff member, detainees at EDF may make as many copies as necessary for court filings, and they also may make photocopies of materials in the library.¹⁰² However, the photocopier is located outside of the library, so this statement seems to conflict with the EDF Handbook, which provides that legal materials may not be taken out of the library.¹⁰³ The EDF Handbook does not otherwise address procedures regarding photocopies and should be changed to reflect the requirements of the Standards.

6. Assistance From Other Detainees

The Standards require that each facility permit detainees to assist other detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk.¹⁰⁴

EDF appears to meet this section of the Standards. Staff told us that detainees are permitted to help each other with legal research and legal documents, provided that the detainees involved are both assigned to the same dormitory unit.¹⁰⁵ This is because the dormitories use the library at times designated for each dormitory, and residents of two dormitories would not be able to be in the library at the same

⁹⁴ Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

⁹⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

⁹⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.N.

⁹⁷ Observations of delegation member [REDACTED].

⁹⁸ Statement of Officer [REDACTED].

⁹⁹ Observations of delegation member [REDACTED].

¹⁰⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

¹⁰¹ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

¹⁰² Statement of Officer [REDACTED].

¹⁰³ EDF Handbook, p. 6.

¹⁰⁴ Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

¹⁰⁵ Statement of Officer [REDACTED].

time.¹⁰⁶ The question of detainees assisting one another with legal research and documents is not addressed in the EDF Handbook.

7. Non-English Speaking Detainees

The Standards require that “Unrepresented illiterate or non-English speaking detainees who wish to pursue an legal claim related to their immigration proceedings. . . and indicate difficulty with the legal materials must be provided with more than access to a set of English-language law books.”¹⁰⁷ The Standards require that facilities establish procedures to meet that obligation.¹⁰⁸

The delegation was unable to determine whether EDF meets this section of the Standards. EDF appears not to have a procedure to address the legal research needs of non-English speakers; when asked, the staff present said they did not know.¹⁰⁹

8. Notice to Detainees

The Standards require that the detainee handbook provide detainees with the rules and procedures governing access to legal materials, including the procedure for requesting additional time in the library beyond the five hours per week minimum.¹¹⁰

EDF partially meets this section of the Standards, although the Handbook does not specify procedures for requesting additional time in the library. The EDF Handbook outlines the operating hours of the library and the procedure for gaining access to the library through sign-up sheets.¹¹¹ It does not specify the procedures for requesting additional time in the library, although EDF staff indicated that additional time would be granted if requested.¹¹² The EDF Handbook also does not specify the procedure for photocopying legal materials, whether such photocopies may be brought out of the library, or the procedure for illiterate or non-English speakers to gain meaningful access to the library.¹¹³

D. Group Rights Presentations

The Standards provide that facilities holding ICE detainees “shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures, consistent with the security and orderly operation of each facility.”¹¹⁴ Informational posters are to be prominently displayed in the housing units at least forty-eight hours in advance of a scheduled presentation, and an officer will hold a sign-up sheet.¹¹⁵ While the presentations are open to all detainees, the facility “may limit the number of detainees at a single session.”¹¹⁶ “The facility shall select and provide an environment conducive to the presentation, consistent with security.”¹¹⁷ In addition, detainees shall have regular opportunities to view an “INS-approved videotaped presentation on legal rights.”¹¹⁸

¹⁰⁶ Statements of Officer [b6, b7C]

¹⁰⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.L.

¹⁰⁸ Detention Operations Manual, Detainee Services, Standard 1, Section III.L.

¹⁰⁹ Notes from delegation member Jennifer Colyer on statement by Officer Margist.

¹¹⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.Q.

¹¹¹ EDF Handbook, p. 6.

¹¹² Statement of Officer Margist; EDF Handbook, p. 6.

¹¹³ See generally EDF Handbook, p. 6.

¹¹⁴ Detention Operations Manual, Detainee Services, Standard 9, Section I.

¹¹⁵ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

¹¹⁶ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

¹¹⁷ Detention Operations Manual, Detainee Services, Standard 9, Section III.E.

¹¹⁸ Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

The EDF substantially meets this section of the Standards, although informational posters are not posted in advance of the presentations and there is no sign up sheet. There are three non-profit initiatives (Human Rights First, First American, and Catholic Charities) that conduct group rights presentations at the facility on at least a weekly basis.¹¹⁹ While there is no sign-up sheet and no postings of the presentations, each detainee who has arrived during the previous week is automatically invited to the presentation.¹²⁰ The presentations are open to all detainees and, while the detainees are separated by gender for any session, enough sessions are held so that all detainees interested in attending the presentation are able to attend.¹²¹ Presenters are permitted to meet individually with detainees after the presentations.¹²² Presentations are available on video.¹²³ In addition to the non-profit entities that currently hold presentations, the facility has not received any further requests to provide presentations.¹²⁴

IV. OTHER PROVISIONS OF THE ICE DETENTION STANDARDS

A. Correspondence and Other Mail

The Standards require that detainees be allowed to send and receive correspondence in a timely manner, subject to limitations required for safety, security, and orderly operation of the facility.¹²⁵ General correspondence shall normally be opened and inspected for contraband in the presence of the detainee, but may be opened and even read outside the presence of the detainee if security reasons exist for doing so.¹²⁶ Special correspondence—which includes all written communication to or from attorneys, legal representatives, judges, courts, government officials, and the news media—is treated differently.¹²⁷ Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but it can never be read or copied.¹²⁸ The detainee handbook must specify how to address correspondence, the definition of special correspondence and how it should be labeled, and the procedure for purchasing postage and rules for providing indigent detainees free postage.¹²⁹ Finally, the Standards require that facilities notify detainees of specific information regarding correspondence policies.¹³⁰

EDF does not fully meet this section of the Standards: the EDF Handbook does not include the required information. EDF provides all detainees with the EDF Handbook; however the EDF Handbook does not provide the following information as required: 1) “the definition of special correspondence, including instructions on the proper labeling for special correspondence . . . [and a] statement that it is the detainee’s responsibility to inform senders of special mail of the labeling requirement”; 2) the fact that detainees may not send or receive packages without advance approved arrangements; 3) instructions about “how to obtain writing implements, paper, and envelopes”; and 4) “the procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage.”¹³¹

¹¹⁹ Notes from delegation members [redacted] and [redacted].

¹²⁰ Notes from delegation member [redacted].

¹²¹ Notes from delegation members [redacted] and [redacted].

¹²² Notes from delegation members [redacted] and [redacted].

¹²³ Notes from delegation members [redacted] and [redacted].

¹²⁴ Notes from delegation member [redacted].

¹²⁵ Detention Operations Manual, Detainee Services, Standard 3, Section I.

¹²⁶ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.

¹²⁷ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B, E, & F.

¹²⁸ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.

¹²⁹ Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

¹³⁰ Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

¹³¹ Detention Operations Manual, Detainee Services, Standard 3, Section III.B; EDF Handbook.

Incoming mail is distributed to detainees on a daily basis.¹³² EDF inspects all special correspondence for contraband in the presence of the detainee.¹³³

B. Detainee Handbook

The Standards require that every Officer in Charge develop a site-specific detainee handbook to serve as an overview of detention policies, rules, and procedures.¹³⁴ Every detainee should receive a copy of the handbook upon admission to the facility.¹³⁵ The handbook will be written in English and translated into Spanish and other prevalent languages as appropriate.¹³⁶ The handbook must include visitation hours and rules.¹³⁷ The handbook must notify detainees of the facility correspondence policy.¹³⁸ The grievance section of the handbook must provide notice of the opportunity to file both formal and informal grievances and the procedures for filing grievances and appeals.¹³⁹ The handbook must provide notice of the facility's rules of conduct and the sanctions imposed.¹⁴⁰ It must advise detainees of rights including the right to protection from abuse, right to freedom from discrimination, and right to pursue a grievance.¹⁴¹ The handbook must also state that detainees have the opportunity to submit written questions, requests, or concerns to ICE staff and the procedures for doing so.¹⁴² The Officer in Charge will provide a copy of the handbook to every staff member who has contact with detainees.¹⁴³

EDF does not fully meet this section of the Standards; certain required provisions are not included in the Handbook. EDF provides a copy of the EDF Handbook to every detainee upon admission to the facility.¹⁴⁴ The EDF Handbook includes policies regarding visitation, correspondence, grievance procedures, rules of conduct and sanctions.¹⁴⁵ The EDF Handbook is available in five languages (English, Spanish, Creole, Chinese and French).¹⁴⁶ Additional translations are provided, if required, through a 24-hour translation service that, however, is not on site.¹⁴⁷ However, certain provisions required under the Standards are not included in the Handbook, as we describe in the sections of this Report on Access to Library and Legal Materials, Correspondence and Other Mail, and Disciplinary Policy.

C. Recreation

The Standards require that all detainees have access to recreational programs and activities, under conditions of security and safety.¹⁴⁸ Detainees should be housed in facilities with outdoor recreation.¹⁴⁹

¹³² Notes from delegation members [redacted] and [redacted].

¹³³ Notes from delegation members [redacted] and [redacted].

¹³⁴ Detention Operations Manual, Detainee Services, Standard 6, Section I.

¹³⁵ Detention Operations Manual, Detainee Services, Standard 6, Section I.

¹³⁶ Detention Operations Manual, Detainee Services, Standard 6, Section III.E.

¹³⁷ Detention Operations Manual, Detainee Services, Standard 17, Section III.B.

¹³⁸ Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

¹³⁹ Detention Operations Manual, Detainee Services, Standard 5, Section III.G.

¹⁴⁰ Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

¹⁴¹ Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

¹⁴² Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

¹⁴³ Detention Operations Manual, Detainee Services, Standard 6, Section III.H.

¹⁴⁴ Notes from delegation member [redacted] on conversation with Officer [redacted]. Delegation members were also provided with a copy of the EDF Handbook upon request.

¹⁴⁵ EDF Handbook, various pages (we note that some of the information contained in various parts of the EDF Handbook is duplicative and/or overlapping which creates potential for confusion).

¹⁴⁶ Notes from delegation member [redacted] on conversation with Officer [redacted].

¹⁴⁷ Notes from delegation member [redacted] on conversation with Officer [redacted].

¹⁴⁸ Detention Operations Manual, Detainee Services, Standard 13, Section I.

Detainees should have access to “fixed and movable equipment,” including opportunities for cardiovascular exercise, and games and television in dayrooms.¹⁵⁰ Under no circumstances will a facility require detainees to forego law library privileges for recreation privileges.¹⁵¹

EDF meets this section of the Standards. The outdoor recreation area consists of a square concrete courtyard area in the middle of the facility that is approximately the size of a volleyball court.¹⁵² The area has a basketball hoop and a volleyball net.¹⁵³ The area receives some natural sunlight and air from a series of open air skylights (covered in wire mesh) in the center of the roof.¹⁵⁴ Men and women use this outdoor recreation separately, and if the women are in the outdoor recreation area, the blinds to the windows looking into the area are closed to give the women some privacy.¹⁵⁵ When the delegation visited, approximately twenty men were playing volleyball in the outdoor recreation area.¹⁵⁶

The facility has separate indoor recreation areas for men and for women.¹⁵⁷ The delegation observed the following in the men’s indoor recreation room: a general library of books, a ping pong table, a foosball table, a television and a VCR.¹⁵⁸ The room also contained exercise equipment including a workout machine with attached weights, a stationary bike, and a treadmill.¹⁵⁹ Books cannot be removed from the indoor recreation area; however copies may be made.¹⁶⁰ Visitors are permitted to donate soft cover books.¹⁶¹

Detainees are provided with a minimum of one hour of daily recreation time.¹⁶² The facility rotates this recreation time for detainees between outdoor and indoor recreation.¹⁶³

The delegation did not see the segregation area; Officer [b6, b7C] informed the delegation that access was not permitted.¹⁶⁴ Detainees in segregation receive outdoor and indoor recreation time like other detainees; however, they remain segregated by using the recreation areas at different times.¹⁶⁵

Detainees do not forfeit law library privileges for recreation privileges.¹⁶⁶

EDF also maintains a small computer room for detainees, which is separate from the recreation areas and the law library.¹⁶⁷ Detainees are permitted to use this computer room for one hour each day, during the hours of 9 a.m. to 9 p.m.¹⁶⁸ This one hour time is in addition to any time the detainees have for

¹⁴⁹ Detention Operations Manual, Detainee Services, Standard 13, Section III.A, which also provides that “all new or renegotiated contracts and IGSA’s will stipulate that INS detainees have access to an outdoor recreation area.”

¹⁵⁰ Detention Operations Manual, Detainee Services, Standard 13, Section III.G.

¹⁵¹ Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

¹⁵² Observations of delegation member [b6].

¹⁵³ Observations of delegation members [b6] and [b6].

¹⁵⁴ Observations of delegation member [b6].

¹⁵⁵ Notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C].

¹⁵⁶ Observations of delegation member [b6].

¹⁵⁷ Notes from delegation member [b6] on conversation with Officer [b6, b7C].

¹⁵⁸ Observation of delegation members [b6] and [b6].

¹⁵⁹ Observation of delegation member [b6].

¹⁶⁰ Notes from delegation member [b6].

¹⁶¹ Notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C].

¹⁶² Statement of Officer [b6, b7C].

¹⁶³ Notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C].

¹⁶⁴ Notes from delegation member [b6] on conversation with Officer [b6, b7C].

¹⁶⁵ Notes from delegation member [b6] on conversation with Officer [b6, b7C].

¹⁶⁶ Notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C].

¹⁶⁷ Notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C].

¹⁶⁸ Notes from delegation member [b6].

recreation and the law library.¹⁶⁹ Officer [b6, b7C] explained that this computer room is very popular among the detainees who like to use the translation programs available on the computers.¹⁷⁰ All of the computers were being used during the delegation's tour of this area of the facility.¹⁷¹

D. Access to Medical Care

The Standards require that all detainees have access to medical services that promote detainee health and general well-being.¹⁷² Each facility is required to have regularly scheduled times, known as sick call, when medical personnel are available to see detainees who have requested medical services.¹⁷³ For a facility of over 200 detainees, there must be sick call five days per week.¹⁷⁴ Facilities must also have procedures in place to provide emergency medical care for detainees who require it.¹⁷⁵ With respect to emergency care, the Standards state that in a situation in which a detention officer is uncertain whether a detainee requires emergency medical care, the officer should immediately contact a health care provider or an on-duty supervisor.¹⁷⁶ Facilities must have adequate facilities, including a toilet and drinking fountain accessible from the waiting or holding area in CDFs.¹⁷⁷

EDF substantially meets this section of the Standards; however, there is no toilet or drinking fountain accessible from the waiting area. Public Health Service Officer Commander [b6] spoke with us about the medical office and answered our questions regarding health care. All detainees at EDF are screened for medical issues upon their initial processing, which takes place on the day they arrive at the facility.¹⁷⁸ Each detainee is questioned regarding prior health history, current health, medical history, suicide risk, mental health, drug and/or alcohol dependence, TB, dental health, and STD/communicable diseases.¹⁷⁹ If red flags are raised the individual is referred to medical for attention.¹⁸⁰ If no red flags are raised, the detainee receives a complete physical within fourteen days of arrival.¹⁸¹ HIV is not routinely checked, however, and is only tested for upon request.¹⁸² When asked whether HIV positive detainees were separated from the population, Commander [b6] indicated that they did not recall having an HIV positive detainee at EDF.¹⁸³ Detainees who have mental health or substance abuse histories are monitored by dormitory staff, but live in the general population.¹⁸⁴ Dormitory staff are trained in CPR, first aid and suicide prevention.¹⁸⁵ There have been no suicides at EDF in the past four years.¹⁸⁶

¹⁶⁹ Notes from delegation members [b6] and [b6] on conversation with Officer [b6, b7C]

¹⁷⁰ Notes from delegation member [b6] on conversation with Officer [b6, b7C]

¹⁷¹ Observation of delegation member [b6]

¹⁷² Detention Operations Manual, Health Services, Standard 2, Section I.

¹⁷³ Detention Operations Manual, Health Services, Standard 2, Section III.F.

¹⁷⁴ Detention Operations Manual, Health Services, Standard 2, Section I.

¹⁷⁵ Detention Operations Manual, Health Services, Standard 2, Section III.A, D, and G.

¹⁷⁶ Detention Operations Manual, Health Services, Standard 2, Section III.H.

¹⁷⁷ Detention Operations Manual, Health Services, Standard 2, Section III.B.

¹⁷⁸ Notes from delegation member [b6] on conversation with Commander [b6]

¹⁷⁹ Notes from delegation member [b6] on conversation with Commander [b6]

¹⁸⁰ Notes from delegation member [b6] on conversation with Commander [b6]

¹⁸¹ Notes from delegation member [b6] on conversation with Commander [b6]

¹⁸² Notes from delegation member [b6] on conversation with Commander [b6]

¹⁸³ Statement of Commander [b6].

¹⁸⁴ Notes from delegation member [b6] on conversation with Commander [b6]

¹⁸⁵ Notes from delegation member [b6] on conversation with Commander [b6]

¹⁸⁶ Notes from delegation member [b6] on conversation with Officer [b6, b7C] and Commander [b6]

The physical medical treatment rooms appeared to be clean and spacious.¹⁸⁷ There was one large room with at least four exam rooms off of that room.¹⁸⁸ All exam rooms had a secure door between it and the general room, ensuring privacy and security.¹⁸⁹ The medical unit employs twelve people full-time, including a doctor, six nurses, a director, a pharmacist and a doctor's assistant.¹⁹⁰ The medical unit is open for five days per week for routine medical treatment and sick calls, and is open for twenty-four hours a day, seven days a week for medical emergencies.¹⁹¹

If a detainee needs medical treatment that the EDF's medical unit cannot supply, the detainee is treated at a local hospital pursuant to contract.¹⁹² The EDF has a mobile x-ray unit, so detainees do not have to be transported for x-rays.¹⁹³

EDF has a secure and separate waiting area in the medical unit, but it does not have a toilet and drinking fountain accessible, as required by the Standards.¹⁹⁴

EDF also has a room dedicated to examination of detainees by private doctors. It is a separate locked room just outside the general medical facility, and it is used primarily for examinations arranged by attorneys for detainees.¹⁹⁵

EDF has a sick call procedure, as required by the Standards. Sick call is held five days per week, and is accessed through a detainee filling out a form and putting it in a box.¹⁹⁶ The forms are available in the dormitory areas.¹⁹⁷ The slips are available in many languages.¹⁹⁸ Staff ordinarily responds to sick call within three days, and if necessary the medical staff will triage the sick call requests, treating more urgent conditions first.¹⁹⁹

EDF's medical unit has a pharmacy on site.²⁰⁰ Medications are provided by prescriptions.²⁰¹

E. Access to Dental Care

The Standards suggest that detainees have an initial dental screening exam within 14 days of the detainee's arrival, and require the facility to provide emergency dental treatment and repair of prosthetic appliances.²⁰² For detainees who are held in detention for over six months, routine dental treatment may be provided, including amalgam and composite restorations, prophylaxis, root canals, extractions, x-rays,

¹⁸⁷ Observations of delegation member [REDACTED]

¹⁸⁸ Observations of delegation member [REDACTED]

¹⁸⁹ Observations of delegation member [REDACTED]

¹⁹⁰ Statement of Commander [REDACTED]

¹⁹¹ Notes from delegation member [REDACTED] on conversation with Commander [REDACTED]

¹⁹² Statement of Commander [REDACTED]

¹⁹³ Statement of Commander [REDACTED]

¹⁹⁴ Detention Operations Manual, Health Services, Standard 2, Section III.B, and observations of delegation member [REDACTED]

¹⁹⁵ Statement of Officer [REDACTED] and observations of delegation members [REDACTED] and [REDACTED]

¹⁹⁶ Notes from delegation member [REDACTED] from conversation with Officer [REDACTED]

¹⁹⁷ Statement of Commander [REDACTED]. We saw boxes in the dorm areas that we were told contained the sick call forms, but because we were not permitted to enter the dormitories, we could not verify that sick call forms were in the boxes.

¹⁹⁸ Statement of Commander [REDACTED]

¹⁹⁹ Notes from delegation member [REDACTED] from conversation with Officer [REDACTED]

²⁰⁰ Notes from delegation member [REDACTED] on conversation with Commander [REDACTED]

²⁰¹ Notes from delegation member [REDACTED] on conversation with Commander [REDACTED]

²⁰² Detention Operations Manual, Health Services, Standard 2, Section III.E.

the repair and adjustment of prosthetic appliances and other procedures required to maintain the detainee's health.²⁰³

EDF does not fully meet this section of the Standards: the detainees do not receive the dental screening.²⁰⁴ If dental care is needed, EDF has a contract with a local dentist who provides the necessary dental care, either in the facility or at his local office.²⁰⁵ Care for emergencies is provided on an as-needed basis, but general check ups are only provided to detainees who are at EDF for more than one year.²⁰⁶

F. Hunger Strikes

The Standards require that all facilities follow accepted standards of care in the medical and administrative management of hunger-striking detainees.²⁰⁷ Facilities must do everything within their means to monitor and protect the health and welfare of the hunger-striking detainee and must make every effort to obtain the hunger striker's informed consent for treatment.²⁰⁸

The delegation was unable to determine whether EDF meets this section of the Standards. When asked about hunger strikes, the staff present said that none had occurred at EDF within any of their tenures.²⁰⁹

G. Detainee Classification System

The Standards require that detention facilities use a classification system and physically separate detainees into different categories.²¹⁰ Detainees must be assigned to the least restrictive housing unit consistent with facility safety and security.²¹¹ Classification is required in order to separate detainees with no or minimal criminal records from inmates with serious criminal records.²¹² Detainees with a history of assaultive or combative behavior are not to be housed with non-assaultive detainees.²¹³

All facility classification systems shall allow classification levels to be re-determined and include procedures by which new arrivals can appeal their classification levels.²¹⁴ Finally, the detainee handbook's section on classification must include (1) an explanation of the classification levels, with the conditions and restrictions applicable to each, and (2) the procedures by which a detainee may appeal his classification.²¹⁵

EDF does not meet this section of the Standards: detainees are not classified at EDF.²¹⁶ The delegation was told that the EDF does not classify detainees because no "criminals" are housed at EDF.²¹⁷

H. Detainee Grievance Procedures

²⁰³ Detention Operations Manual, Health Services, Standard 2, Section III.E.

²⁰⁴ Notes from delegation member [REDACTED] on conversation with Commander [REDACTED].

²⁰⁵ Notes from delegation member [REDACTED] on conversation with Commander [REDACTED].

²⁰⁶ Statement of Commander [REDACTED].

²⁰⁷ Detention Operations Manual, Health Services, Standard 1, Section I.

²⁰⁸ Detention Operations Manual, Health Services, Standard 1, Section I.

²⁰⁹ Statements of Commander [REDACTED].

²¹⁰ Detention Operations Manual, Detainee Services, Standard 4, Section I.

²¹¹ Detention Operations Manual, Detainee Services, Standard 4, Section III.F.

²¹² Detention Operations Manual, Detainee Services, Standard 4, Sections III.A & E.

²¹³ Detention Operations Manual, Detainee Services, Standard 4, Section III.F.

²¹⁴ Detention Operations Manual, Detainee Services, Standard 4, Sections III.G & H.

²¹⁵ Detention Operations Manual, Detainee Services, Standard 4, Section III.I.

²¹⁶ Statement of Officer [REDACTED].

²¹⁷ Statement of Officer [REDACTED].

The Standards require that every facility develop and implement standard procedures for handling detainee grievances and encourage that the facility initially seek to resolve grievances informally before having to engage in a more formalized procedure.²¹⁸ The Standards also require that each facility establish a reasonable time limit for: (1) “processing, investigating, and responding to grievances;” (2) “convening a grievance committee to review formal complaints;” and (3) “providing written responses to detainees who filed formal grievances, including the basis for the decision.”²¹⁹ All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.²²⁰

The delegation was unable to determine whether EDF fully meets this section of the Standards. Grievances at EDF are handled on the lowest staff level possible and are only elevated to a higher level if no immediate resolution of the grievance is possible.²²¹ Detainees are free to put forth oral grievances; if a grievance is submitted in writing, the detainee will receive a written response.²²² The EDF Handbook states that forms for “informal” grievances (“Detainee Request Form”) are available in dormitories and refers to dormitory bulletin boards for the policy on “formal” grievances.²²³ The EDF Handbook also sets forth “formal” grievance procedures; those do not explicitly contemplate a grievance “committee,” but otherwise appear to substantially meet the Standards.²²⁴

I. Disciplinary Policy

The Standards state that facility authorities “will impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures” in order “to provide a safe and orderly living environment.”²²⁵ Each facility holding ICE detainees must have a detainee disciplinary system which has “progressive levels of reviews, appeals, procedures, and documentation procedures.”²²⁶ The disciplinary policy must clearly define detainee rights and responsibilities, and any disciplinary action taken must not be capricious or retaliatory.²²⁷ The following sanctions may not be imposed: “corporal punishment; deviations from normal food services; deprivation of clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; or deprivation of physical exercise unless such activity creates an unsafe condition.”²²⁸

The Detainee Handbook must notify detainees of the disciplinary process, the prohibited acts and disciplinary severity scale, and the procedure for appeals.²²⁹ The handbook must also notify detainees of specific rights, including the right to protection from abuse, harassment, and discrimination, the right to pursue a grievance, and the right to due process, including prompt resolution of a disciplinary matter.²³⁰

EDF does not fully meet this Standard: the EDF Handbook does not advise detainees of important rights. The delegation was unable to determine whether EDF meets the rest of this

²¹⁸ Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.A.

²¹⁹ Detention Operations Manual, Detainee Services, Standard 5, Section I.

²²⁰ Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.C & D.

²²¹ Notes from delegation member [REDACTED] on conversation with Officer [REDACTED].

²²² Notes from delegation member [REDACTED] on conversation with Officer [REDACTED].

²²³ EDF Handbook, p. 11. The delegation did not have access inside the EDF dormitories during the visit.

²²⁴ EDF Handbook, pp. 19-20. The delegation was unable to confirm whether the procedures in the EDF Handbook differ from those posted on dormitory bulletin boards due to the lack of access inside the EDF dormitories.

²²⁵ Detention Operations Manual, Security and Control, Standard 5, Section I.

²²⁶ Detention Operations Manual, Security and Control, Standard 5, Section III.A.1.

²²⁷ Detention Operations Manual, Security and Control, Standard 5, Section III.A.1 & 2.

²²⁸ Detention Operations Manual, Security and Control, Standard 5, Section III.A.3.

²²⁹ Detention Operations Manual, Security and Control, Standard 5, Section III.L.

²³⁰ Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

Standard. Due to time constraints imposed by the facility personnel, the delegation did not have the opportunity to ask detailed questions regarding the facility’s disciplinary processes.

Detainees are permitted to appeal sanctions imposed within thirty days, however they are held in the special housing unit during that time.²³¹

The EDF Handbook does notify the detainees of the disciplinary process, the prohibited acts and disciplinary severity scale.²³² In addition, the EDF Handbook notifies detainees of the facility’s rules of conduct and the sanctions imposed for the violation of these rules.²³³ However, the EDF Handbook does not advise the detainees of their “right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment” or their “right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs.”²³⁴

J. Special Management Unit

The Standards suggest that each facility establish a Special Management Unit (“SMU”) that will isolate certain detainees from the general population.²³⁵ The Standards for Administrative and Disciplinary Segregation differ somewhat from one another, but both provide for legal access and other protections. A detainee may be placed in disciplinary segregation only by order of the Institutional Disciplinary Committee, after a hearing in which the detainee has been found to have committed a prohibited act.²³⁶

All cells in the SMU must be well ventilated, appropriately heated, and sanitary, and must be equipped with beds.²³⁷ Segregated detainees shall have the opportunity to maintain a normal level of personal hygiene.²³⁸ Recreation shall be provided to detainees in segregation in accordance with the “Recreation” standard.²³⁹ Access to the law library shall generally be granted to detainees in segregation.²⁴⁰ Detainees generally retain visiting privileges while in disciplinary segregation, and may not be denied legal visitation.²⁴¹ Detainees in administrative segregation generally have the same telephone privileges as other detainees,²⁴² while detainees in disciplinary segregation shall be restricted to telephone calls for calls relating to the detainee’s immigration case or other legal matters, calls to consular/embassy officials, and family emergencies.²⁴³ Detainees in segregation shall have the same correspondence privileges as detainees in the general population.²⁴⁴

²³¹ Statement of Officer [REDACTED] b6, b7C

²³² EDF Handbook, pp. 13-19.

²³³ EDF Handbook, pp. 13-19.

²³⁴ Detention Operations Manual, Security and Control, Standard 5, Sections III.A.5.a & b; EDF Handbook.

²³⁵ Detention Operations Manual, Security and Control, Standard 14, Section I.

²³⁶ Detention Operations Manual, Security and Control, Standard 14, Section III.A.

²³⁷ Detention Operations Manual, Security and Control, Standard 13, Section III.D.2, and Standard 14, Section III.D.6.

²³⁸ Detention Operations Manual, Security and Control, Standard 14, Section III.D.11.

²³⁹ Detention Operations Manual, Security and Control, Standard 13, Section III.D.8, and Standard 14, Section III.D.13.

²⁴⁰ Detention Operations Manual, Security and Control, Standard 13, Section III.D.18, and Standard 14, Section III.D.15.e.

²⁴¹ Detention Operations Manual, Security and Control, Standard 13, Sections III.D.13 & 14, and Standard 14, Section III.D.17.

²⁴² Detention Operations Manual, Security and Control, Standard 13, Section III.D.16.

²⁴³ Detention Operations Manual, Security and Control, Standard 14, Section III.D.19.

²⁴⁴ Detention Operations Manual, Security and Control, Standard 13, Section III.D.20, and Standard 14, Section III.D.18.

The delegation was unable to determine whether EDF fully meets this section of the Standards. The delegation was not granted access to the SMU. In addition, due to time constraints imposed by the facility personnel, the delegation did not have the opportunity to ask detailed questions regarding the SMU. Therefore, the delegation is unable to determine whether EDF fully meets this section of the Standards.

There are six beds in the SMU, including one for women.²⁴⁵ Detainees in segregation appear to have access to recreation, the law library or telephone privileges.²⁴⁶

K. Staff-Detainee Communication/ICE Presence at the Facility

The Standards require that procedures be in place “to allow for formal and informal contact between key facility staff and ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.”²⁴⁷ The Standards suggest that both weekly visits be conducted by ICE personnel and that “regular unannounced (not scheduled) visits” be conducted by the ICE OIC, the Assistant OIC, and designated department heads.²⁴⁸ Unannounced visits to the facility’s housing areas must be conducted on a regular basis—weekly at SPCs and CDFs.²⁴⁹ The Standards also require that detainees “have the opportunity to submit written questions, requests, or concerns to ICE staff,” which “shall be delivered to ICE staff by authorized personnel (not detainees) without reading, altering, or delay.”²⁵⁰

Due to time constraints imposed by the facility personnel, the delegation was unable to determine whether EDF meets this section of the Standards. The delegation met with [REDACTED] b6, b7C, who is an ICE Supervisory Deportation Officer and the Acting Director of EDF. Officer [REDACTED] b6, b7C is on site at the facility on a regular basis.²⁵¹

L. Religious Practices

The Standards require that detainees of different religious beliefs be provided with reasonable and equitable opportunities to participate in the practices of their respective faiths.²⁵² According to the Standards, these “opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether the religion is ‘mainstream,’ whether the religion is ‘Western’ or ‘Eastern,’ or other such factors. Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.”²⁵³ Detainees in confinement must also be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.²⁵⁴

EDF appears to meet this section of the Standards. EDF does provide a shared “chapel” room, which is accessible to ministers of all faiths and can be used for individual worship as well.²⁵⁵ Each religion provides its own religious materials and EDF offers storage space for each religious community

²⁴⁵ Notes from delegation member [REDACTED] b6

²⁴⁶ Notes from delegation member [REDACTED] b6 on conversations with Officer [REDACTED] b6, b7C and Warden [REDACTED] b6, b7C

²⁴⁷ Detention Operations Manual, Detainee Services, Standard 15, Section I.

²⁴⁸ Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

²⁴⁹ Detention Operations Manual, Detainee Services, Standard 15, Section III.A.1.

²⁵⁰ Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

²⁵¹ Statement of Officer [REDACTED] b6, b7C

²⁵² Detention Operations Manual, Detainee Services, Standard 14, Section I.

²⁵³ Detention Operations Manual, Detainee Services, Standard 14, Section I.

²⁵⁴ Detention Operations Manual, Detainee Services, Standard 14, Section III.O.

²⁵⁵ Notes from delegation member [REDACTED] b6 on conversation with Officer [REDACTED] b6, b7C

for its worship material.²⁵⁶ All inmates can wear headscarves, turbans, and other religious clothing during services, but not outside of services, on a daily basis.²⁵⁷

M. Voluntary Work Program

The Standards suggest that all facilities with work programs provide an opportunity for physically and mentally capable detainees to “work and earn money.”²⁵⁸ Participation must be voluntary, and detainees may not work more than eight hours per day, and 40 hours per week.²⁵⁹

EDF meets this section of the Standards. Detainees are provided an opportunity to work in the facility should they choose to do so.²⁶⁰ Detainees may work in the laundry room and the kitchen, or serve as a translator, barber or maintenance worker.²⁶¹ Our delegation observed detainees as they arrived for work in the kitchen.²⁶² Detainees are compensated for their work at the rate of one dollar per day.²⁶³

V. CONCLUSION

The Elizabeth Contract Detention Facility meets the requirements of several of the ICE Detention Standards but fails to meet certain of the sections. Unfortunately, due to the time constraints and limitations to access imposed by the facility personnel, the delegation was unable to determine whether the facility meets a number of sections of the Standards. As discussed above, the EDF staff did not permit the delegation access to many of the locked areas of the facility, including the law library, the dormitories, and recreational areas. In addition, the delegation was only permitted to be inside the EDF facilities for less than two hours, and was therefore unable to ask a number of questions relating to the Standards. The primary purpose of the ABA’s delegations to detention facilities is to evaluate legal access afforded to detainees in ICE custody; without access to the law library or telephones in the housing areas, the delegation was unable to do so.

Detainees should not be required to wait thirty days to qualify as indigent, and therefore eligible for additional postage and telephone access, particularly because immigration cases may move quickly and appeal deadlines are short.

The EDF library appears to be too small, and to be open for too few hours, to be able to meet the Standards. The delegation was unable to determine what legal materials were available to detainees (both in hard copy and electronically) or whether the required materials are available.

The delegation was very impressed that EDF maintains a computer room for detainees, which is separate from the recreation areas and the law library. Detainees are permitted to use this computer room in addition to any time the detainees have for recreation and the law library. The delegation understands that this computer room is very popular among the detainees who like to use the translation programs available on the computers, and members of the delegation observed the use of these computers during the visit.

The delegation noted several shortcomings with the EDF Handbook that should be corrected.

²⁵⁶ Notes from delegation member [REDACTED] on conversation with Officer [REDACTED]

²⁵⁷ Notes from delegation member [REDACTED] on conversation with Officer [REDACTED]

²⁵⁸ Detention Operations Manual, Detainee Services, Standard 37, Sections I & III.A.

²⁵⁹ Detention Operations Manual, Detainee Services, Standard 37, Sections III.A. & H.

²⁶⁰ EDF Handbook, pp. 8-9.

²⁶¹ EDF Handbook, p. 8; notes from delegation member [REDACTED].

²⁶² Observation and notes from delegation member [REDACTED].

²⁶³ EDF Handbook, p. 8; notes from delegation member [REDACTED] on conversation with Food Service Manager [REDACTED].

The delegation wishes to thank the EDF personnel for their participation during the delegation's visit.

Facility Name: **ELIZABETH CONTRACT DETENTION FACILITY, Elizabeth, New Jersey**

Date of Tour: **July 25, 2007**

Tour Participants: Fried, Frank, Harris, Shriver & Jacobson LLP attorneys [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]

**Standards are Detainee Services Standards unless otherwise indicated. Standards excerpts are typed verbatim. Issues are generally listed in their order from the Report.*

Report comments in bold are priority issues for ICE-ABA discussion.

	ICE Standard*	Delegation Report	Source	ICE Response
1.	<p>Standard 17, Visitation</p> <ul style="list-style-type: none"> ▪ III.L. Non-Government Organization Visitation with Detainees and Tours of Facilities. All requests by NGOs and other organizations to send representatives to visit detainees must be submitted in writing All efforts will be made to accommodate NGO requests for facility tours in a timely manner.¹ 	<ul style="list-style-type: none"> ▪ The EDF staff did not permit the delegation access to many of the areas that the delegation had requested in advance to visit. These areas included the law library, the dormitories (where the telephones are located), and the recreational areas. Accordingly, the delegation was unable to determine whether EDF meets a number of sections of the Standards, particularly those related to legal access. This lack of access is remarkable considering the ABA’s longstanding partnership with ICE in assessing legal access at detention facilities. The primary purpose of the ABA’s delegations to detention facilities is to evaluate legal access afforded to detainees in ICE custody; without access to the law library or telephones in the housing areas, the delegation was unable to do so. (p.2 ¶2) 	<p>Delegation observations</p>	
2.	<p>Standard 16, Telephone Access</p> <ul style="list-style-type: none"> ▪ I. Facilities holding [ICE] detainees shall permit them to have reasonable and equitable access to telephones. ▪ III.F. The facility shall not restrict the number of calls a detainee places to his/her legal representative, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call if desired, at the first available opportunity.. 	<ul style="list-style-type: none"> ▪ The EDF Handbook states that calls should not last more than fifteen minutes, except calls to consulates and pro bono attorneys, which can exceed the normal fifteen-minute limit. According to Officer [REDACTED], in practice, there are no time limits on any calls except when other detainees are waiting to use the telephones. (p.6 ¶3) 	<p>EDF Handbook; Officer [REDACTED]</p>	

¹ See also Letter from DRO Deputy Executive Associate Commissioner Anthony S. Tangeman to ABA (Aug. 20, 2001): “Routinely, all tours of facilities shall include general housing units, law libraries, dining facilities, recreation areas, healthcare services and visitation areas.” [Attached to request to visit the facility.]

3.	Standard 16, Telephone Access <ul style="list-style-type: none"> ▪ III.E. The facility shall not require indigent detainees to pay for [legal, court-related, consular, emergency calls] if they are local calls, nor for non-local calls if there is a compelling need. 	<ul style="list-style-type: none"> ▪ A detainee may qualify as indigent if he or she has had a balance of \$3 or less in his or her EDF account for the past thirty days. Thirty days is too long to wait for fuller telephone privileges, particularly because immigration cases move very quickly. (p.5 ¶5) 	Officer [REDACTED] EDF Handbook	
4.	Standard 1, Access to Legal Material <ul style="list-style-type: none"> ▪ III.B. Equipment. The law library shall provide an adequate number of typewriters and/or computers, writing implements, paper and office supplies to enable detainees to prepare documents for legal proceedings. 	<ul style="list-style-type: none"> ▪ There was one computer visible through the door of the EDF law library, which does not seem adequate for over 300 detainees. (p.9 ¶2) 	Delegation observations	
5.	Standard 1, Access to Legal Material <ul style="list-style-type: none"> ▪ III.G. The facility shall...permit all detainees, regardless of housing or classification, to use the law library on a regular basis. Each detainee shall be permitted to use the law library for a minimum of five (5) hours per week. 	<ul style="list-style-type: none"> ▪ The operating hours of the library appear too limited to permit each dorm to use the library for five hours per week, even if it is open seven days per week. (p.7 ¶5) 	EDF Handbook	
6.	Standard 1, Access to Legal Material <ul style="list-style-type: none"> ▪ III.Q. The detainee handbook ... shall provide detainees with the rules and procedures governing access to legal materials, including ... 4. the procedure for requesting additional time in the law library (beyond the 5 hours per week minimum); 	<ul style="list-style-type: none"> ▪ The EDF Handbook does not specify the procedures for requesting additional time in the library. However, EDF staff indicated that additional time would be granted if requested, (p.10 ¶5) 	EDF Handbook; Officer [REDACTED]	
7.	Standard 9, Group Presentations on Legal Rights <ul style="list-style-type: none"> ▪ III.C. At least 48 hours before a scheduled presentation, informational posters ... shall be prominently displayed in housing units, and each housing unit control officer will hold a sign-up sheet. 	<ul style="list-style-type: none"> ▪ There is no sign-up sheet and there are no postings of the presentations. However, each detainee who has arrived during the previous week is automatically invited to a presentation. (p.11 ¶1) 	Delegation notes	

8.	<p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> III.B. The facility shall notify detainees of its policy in correspondence and other mail through the detainee handbook or equivalent ... [and] shall specify: 5. The definition of special correspondence, including instructions on the proper labeling for special correspondence, without which it will not be treated as special mail; 6. That packages may not be sent or received without advance arrangements approved by the OIC 8. How to obtain writing implements, paper, and envelopes; and 9. The procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage 	<ul style="list-style-type: none"> The EDF Handbook does not provide the following information as required: 1) “the definition of special correspondence, including instructions on the proper labeling for special correspondence [and a] statement that it is the detainee’s responsibility to inform senders of special mail of the labeling requirement”; 2) the fact that detainees may not send or receive packages without advance approved arrangements; 3) instructions about “how to obtain writing implements, paper, and envelopes”; and 4) “the procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage.” (p.11 ¶3) 	EDF Handbook	
9.	<p>Health Services Standard 2, Medical Care</p> <ul style="list-style-type: none"> I. All detainees shall have access to medical services that promote detainee health and general well-being. III.B. In SPCs/CDFs, ... [a] detainee toilet and drinking fountain will be accessible from the holding/waiting area. 	<ul style="list-style-type: none"> The waiting area in the medical unit does not have a toilet and drinking fountain accessible. (p.15 ¶4) 	Delegation observations	
10.	<p>Health Services Standard 2, Medical Care</p> <ul style="list-style-type: none"> III.E. Dental Treatment. An initial dental screening exam should be performed within 14 days of the detainee’s arrival. 	<ul style="list-style-type: none"> The detainees do not receive the dental screening. (p.16 ¶2) 	Commander [REDACTED]	
11.	<p>Standard 4, Detainee Classification System</p> <ul style="list-style-type: none"> I. All [ICE] detention facilities will implement this Detainee Classification System (DCS). CDFs and IGSA facilities may continue using the systems established locally, if the classification criteria are objective and all procedures meet the [ICE] requirements. 	<ul style="list-style-type: none"> Detainees are not classified at EDF. (p.17 ¶1) 	Officer [REDACTED]	
	<p>Security and Control Standard 5, Disciplinary Policy</p> <ul style="list-style-type: none"> III.A.5. The detainee handbook or equivalent, issued to each detainee upon admittance, shall provide notice of the facility’s rules of conduct ... Among other things, the handbook shall advise detainees of the following: a. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment; b. The right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs.... 	<ul style="list-style-type: none"> The EDF Handbook does not advise the detainees of their “right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment” or their “right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs.” (p.18 ¶4) 	EDF Handbook	